APPENDIX A:

2002 LEVY ADMINISTRATIVE AND FINANCIAL PLAN
RENTAL PRESERVATION & PRODUCTION

2007-2009

RENTAL PRESERVATION & PRODUCTION PROGRAM

	TOTAL 2003-2009	YEARS 2007-2009
Program funding	$56,100,000	$24,042,857
Goal	1,522 units	652 units

Program Policies

1. Use of funds

The City's affordable rental housing priorities are described in Appendix H of the 2005-2008 Consolidated Plan for Housing & Community Development, as previously amended and as it may be further amended. Proposed projects not meeting one or more of those priorities may still be considered for City funding.

Program funds can be used as long-term loans, bridge loans, reserves for additional loans to projects under development and, under certain circumstances, supplemental funding for projects previously funded by the City.

Program funds can be used to pay for acquisition and/or rehabilitation costs associated with preserving existing vacant or occupied buildings, for new construction projects, and for permanent or "take-out" financing, including refinancing of existing loans.

Eligible acquisition costs include reasonable costs associated with site acquisition, such as:

- Purchase price
- Option costs
- Financing fees
- Appraisal costs
- Closing costs
- Interest
- Inspection fees
- Title insurance
- Professional fees

Eligible rehabilitation and new construction costs include but are not limited to:

- Architectural/engineering fees
- Construction costs
- Relocation costs
- Operating costs during project rent-up
- Hazardous materials abatement

Eligible permanent or "take out" financing costs include costs related to the acquisition, development and construction of the units.

Reasonable developer fees will also be an eligible use of Levy funds. Developer fees must be consistent with OH's Developer Fee Policy, as published in the Office of Housing's annual Notice of Funding Availability (NOFA) and as it may be amended by the Director from time to time, and will be considered as part of the development budget for a proposed project.

For projects selected for funding, up-front development costs incurred prior to a project's selection will be eligible for Levy reimbursement. Examples of up-front costs include earnest money agreements, legal costs, and preliminary architectural or engineering costs. Impact Capital (IC) is a potential source of up-front development costs for nonprofit agencies. Levy funds can be used to repay Impact Capital loans.

2. Eligible projects

Levy program funding may be used as described below. Eligible projects may include entire buildings, individual units(s) within a building, portions of a building, or individual units(s) or portions of several different buildings, consistent with the policies described below.

Levy funds can be used for projects that combine subsidized rental housing with market-rate units or other uses. The borrower must demonstrate that City funding is attributable to the Levy-eligible housing and that costs of other parts of the project are paid from funds eligible for that purpose.

Residential space includes common areas and support space, to the extent attributable to the housing and not to other uses. Examples include:

- Common areas for resident use such as television or reading rooms;
- Areas for cooking, eating, bathing;
- Corridors, stairwells, storage areas;
- Management office space; and
- Building lobby area.

For projects serving special needs populations, other accessory space (e.g. space used for on-site social services for residents) that is necessary for the viability of the project may be considered part of the Levy-eligible housing.

Levy funds may be allocated to non-residential areas of mixed-use buildings only for work directly benefiting the residential units; e.g., rehabilitation work that is part of overall exterior building improvements (masonry repairs) or rehabilitation work necessary to insure the structural integrity of the building. Costs associated with commercial tenant improvements or improvements to market-rate units are not eligible for Levy funding.

Mixed-use buildings will require financing for non-housing portions of a project. While Levy funds may not be used for costs allocable to non-housing portions, nor for costs allocable to housing for ineligible tenants, OH will help applicants identify other project funding or innovative fund sources to cover non-housing project costs.

Where it is impractical to segregate construction or rehabilitation costs between Levy funded units and other portions of a mixed-use or mixed-income project, the OH Director may permit such costs to be prorated between Levy funding and other funding sources based on any reasonable formula. In order to facilitate development of the Levy-eligible units, OH may allow Levy funds to be used for the full amount of a cost item (such as purchase of land, including any structures) that is partially attributable to non-residential or market-rate space if:

- Documentation is provided prior to expenditure of Levy funds that assures sufficient funding from non-Levy sources will be provided prior to project completion to pay for a share of total project costs equal to the full amount allocable to such space; and
- Loan documents require that the final cost certification confirms the allocation of costs of such space to such non-Levy sources.

3. Eligible tenants

Tenant households must generally have incomes at or below the applicable limit for the unit—30%, 50% or 60% of area median income, adjusted for household size, to be eligible to live in a unit assisted through the Rental Preservation & Production Program. Detailed rent requirements are outlined in Section 8, Occupancy and Rent Requirements, and the requirements for individual projects will be included in loan documents prior to fund disbursement.

In some projects, some or all units may be reserved for homeless persons or households with one or more members who have a disability or special need.

Where appropriate sponsors are expected to contract with service providers or provide appropriate support services. Projects providing transitional housing will be required to link support services directly to households in those units, but on-site services will not necessarily be required.

4. Eligible borrowers

Eligible borrowers of Housing Levy funds are:

- Private nonprofit agencies;
- Public Development Authorities;
- Seattle Housing Authority (SHA), except that Levy funds for housing units developed as part of SHA HOPE VI redevelopments are not eligible unless the City Council approves such use through a Memorandum of Agreement or other agreement with SHA;
- Private for-profit owners/developers.

Private nonprofit agencies will be required to submit articles of incorporation and an IRS letter as proof of nonprofit status. Eligible nonprofits must have a charitable purpose, which may or may not include the provision of housing. The City's preference is to provide funding to nonprofit sponsors, including public agencies that have established housing as a primary mission and track record of the organization. Through the project selection process, priority will be given to nonprofit and public agencies that have demonstrated ability to develop and/or manage low-income housing, and to limited partnerships or other organizations through which such nonprofit and public agencies obtain tax credits to help finance a project.

Any partnership or organization created by a nonprofit or public corporation in order to obtain tax credits may be treated by the Director as a nonprofit corporation for purposes of the policies in this Plan. The Director also may consider as nonprofit corporation any corporation, limited liability company, general partnership, joint venture, or limited partnership if all shareholders, members, partners, and any other equity owners of such entity are nonprofit corporations or public entities.

Sponsors ordinarily must demonstrate previous experience in the development, ownership, and management of housing projects similar to the project being proposed. If the nonprofit sponsor does not have previous experience in one or more of those areas, the sponsor will be expected to propose an appropriate relationship with another entity in order to demonstrate required experience. OH will evaluate the experience of a sponsor's management/development team, staff, Board of Directors, and other project and program experience to determine there is sufficient capacity to develop, own and operate housing on a long-term basis.

5. Maximum City percentage of project financing

The City's maximum percentage of project financing includes all OH and other capital funds administered or allocated by the City that may be combined to provide permanent financing for the housing portion of a project, including funds from any Housing Levy, the Community Development Block Grant Program, HOME Program, Residential Bonus Program, Commercial Bonus Program, any special mitigation funds, program income, Office of Economic Development (OED) equity funds, and OED Community Development Corporation and technical assistance funds if used as capital for development or other long-term capital gap-financing subsidy. The City's maximum percentage of project financing also includes funding awarded from King County Document Recording Fees allocation processes, but does not include any funds used by the City to purchase transferable development rights (TDR). Bridge or Section 108 loans are not included in computing the percentage. For purposes of this section, "project" is defined as those units in the building(s) that are City funded and rent-regulated, and the common areas, elements or portions allocable to those units.

Leveraging other non-City resources is required for most projects. The established maximum percentage of project financing figures will be reviewed in light of actual project experience when future plans are prepared and will be revised if necessary.

In general, the maximum per project amount that the City will provide is 40% of total development costs of the low-income housing portion of a project. Total development costs are all components of typical development budgets, including site acquisition, construction costs, and soft costs.

Waivers may be granted by the OH Director on a project-by-project basis to permit City funding in excess of the percentage stated in the previous paragraph. The OH Director may approve an increase in City subsidy of an additional 10%, up to a total of 50% of the low-income housing portion of a project's total development costs for projects that clearly demonstrate the need for a policy waiver.

Waivers may be considered on a case by case basis for projects meeting one or more of the following criteria:

- Projects that are located in an area with little or no subsidized, low-income housing, or in an area identified in the City's comprehensive plan or other adopted policies as one in which low-income subsidized housing should be encouraged.
- Projects that provide special amenities and/or unique design features for the proposed tenant population. This may include projects that contain larger units for families; or projects that require reconfiguration of units to meet the needs of the proposed population; or special design features resulting from the participation of potential tenants and/or community members in project development.
- Projects where other public funders have made their maximum award or for which maximum leveraging of other public fund sources is not possible due to timing considerations, i.e. sources not available at time project should proceed. OH may ask sponsors to apply for other fund sources later, if appropriate.

OH will use costs of previously funded, comparable projects as a guide in determining if a waiver is justified; however, waiver decisions will be made on a case by case basis based on specifics of the particular project or situation. Additional waivers permitting higher City subsidy amounts may be granted if the OH Director finds that the leveraging potential of other fund sources is very limited and higher City subsidy is warranted. In this limited circumstance, funding in excess of 50% of total development costs of the City-funded units is permissible, as long as the project is a rental housing priority of particular interest as described in this A&F Plan.

6. Location

Funded projects may be located in any neighborhood, subject to any applicable policies provided in Appendix H of the 2005-2008 Consolidated Plan for Housing & Community Development, as previously amended and as it may be further amended.

7. Siting

The following criteria will be considered during the project selection process to determine whether the location of a proposed project promotes a quality environment for the population to be served, and will apply equally to transitional and permanent housing projects:

- proximity to transit, goods and services necessary for the specific population;
- relationship and compatibility of the project with other uses in the area;
- safety and security of the location for the proposed population;
- special amenities (e.g., availability of safe and secure outdoor play space for children in family housing projects).

Proposed projects must also be in compliance with the City’s Siting Policy (formerly called the dispersion policy), unless the OH Director grants a waiver, as provided in Appendix H of the 2005-2008 Consolidated Plan for Housing & Community Development, as previously amended and as it may be further amended.

8. Notification

Sponsors must initiate a community notification effort prior to application for funding. The full text of the City's Neighborhood Notification and Community Relations Guidelines is included in Appendix H of the 2005-2008 Consolidated Plan for Housing & Community Development, as previously amended and as it may be further amended. Failure to comply with notification guidelines may result in rejection of an application, denial of funding, deferral of funding pending further notification efforts, or other remedies as determined by the OH Director.

9. Occupancy and rent requirements

(a) Income-eligible tenants and affordable rent levels

Generally, program funds are available only for units that will be occupied by tenants with incomes at or below the applicable limits at affordable rents for the respective income categories. Tenant households with income above the eligibility levels are called "over-income tenants." City funding will not be available for units that will be occupied by residents with income greater than 80% of median income (at the time of their initial occupancy or the time of City funding, if later); however, the City may require as a funding condition that units occupied by such tenants, although not City-funded, become rent-regulated under a City Regulatory Agreement when occupancy changes.

Where an existing, occupied project is to be acquired or rehabilitated with Levy funds targeted at households with incomes up to 30%, 50% or 60% of median income, and some units subsidized with those funds are occupied by over-income tenants with income up to 80% of median income, Levy funds may be used for units that will be brought into compliance with income and affordability rules for the target income group within two years of the date of the loan agreement. The initial regulatory term would be established for a fifty-two year period. By the end of the initial two-year period after the date of the loan agreement, over-income tenants would need to be relocated or the Borrower would be in default.

Extremely low-income tenant households (30% of median income and below) in units subsidized through the Operating & Maintenance Program generally are required to pay 35% of their incomes toward rent and utilities, consistent with the Operating & Maintenance Program section of this Plan.

Tenants who are income-eligible at the time of their initial occupancy or the time of City funding, whichever is later, generally are not required to be relocated merely because they become over-income tenants through changes in income or household size.

See subsection (d) for policies applicable to projects receiving HUD "Section 8" or certain other subsidies.

(b) Rent increases

Rents immediately after rehabilitation or after acquisition for low-income tenants in Levy-funded units generally should not exceed before-rehabilitation or before-acquisition rents. Displacement of low-income tenants due to after-rehabilitation or after-acquisition rent increases should be avoided. Higher after-rehabilitation or after-acquisition rents will be considered only if necessary to insure adequate project operating funds. After-rehabilitation and after-acquisition rents for vacant units and rents for newly constructed units should generally not exceed an average of the rents for comparable occupied units.

During the loan term, rents for occupied units can be increased up to 1.5% per annum or up to the percent increase in the Housing Component of the Consumer Price Index (CPI) for Rent of Primary Residences for the Seattle area, whichever is greater, provided that the adjusted rent does not exceed the maximum affordable rent for the target income category specified in the project regulatory agreement. However, projects that have experienced extraordinary expenses may request an increase greater than the amount allowed, provided that the rent is consistent with the applicable affordability restrictions. Upon unit turnover, rents may be adjusted to the maximum allowable rent based on number of bedrooms and affordability level. OH will publish the CPI escalation factor and maximum affordable rents by number of bedrooms annually. The intent is to permit modest rent increases as operating costs increase in order to avoid sudden, sizeable rent increases that could displace residents and also to avoid undue financial hardship on sponsors.

Sponsors shall estimate operating costs in operating proforma approved by OH. Operating costs shall include taxes, insurance, utilities, salaries, management fees, replacement and operating reserves, maintenance supplies and services, and other such expenses as shall be allowed by OH.

At no time during the term of the loan can rents payable by tenants for units occupied by income-eligible tenants exceed "affordable rent" as defined under “Program Definitions” below.

Rents for over-income tenants may be increased above "affordable rent levels." If the property includes market-rate units or units with different income eligibility levels, and if OH has approved a "floating unit" regime, the unit occupied by an over-income tenant may cease to be considered a City-funded unit, or may be moved to a higher income category, upon substitution of a comparable unit.

(c) Fund allocation policy

Levy Program funds for Rental Preservation & Production are subject to the following policy:

- All Levy Rental Preservation & Production Program funds must be used for housing with affordable rents for households with incomes at 60% of median income;
- At least 59% of Levy Rental Preservation & Production Program funds shall be used for housing with affordable rents for households with incomes at 30% of median income;
- Up to 41% of Levy Rental Preservation & Production Program funds may be used for housing with affordable rents for very low-income households but not affordable rents for extremely low-income households;
- Up to 10% of Levy Rental Preservation & Production Program funds may be used for housing with affordable rents for households with incomes at 60% of median income but not affordable rents for very low-income households.

OH administers the fund allocation policy across the Rental Preservation & Production program as a whole, not on an individual project-by-project basis. The policy will be administered on a three-year cycle under this plan. All projects approved for Levy program funding from January 1, 2007 through December 31, 2009 shall be included in calculating City affordability policy goals for the 2007-2009 period.

(d) Other policies

Sponsors who have committed to serve specific populations must obtain OH approval for any change in low-income population to be served. If some event occurs, such as loss of services funding, that the sponsor believes requires a change in the tenant population, the sponsor should consult with OH concerning alternatives and then current City priorities.

Rent levels for units assisted under both the Housing Levy Program policies and directly under federal HUD programs shall be consistent with applicable federal laws or regulations now or hereafter in effect, and any terms of HUD or SHA contracts. Where rent subsidies or vouchers are provided by HUD or SHA, the Director may allow the total rent charged to be the maximum allowed by HUD or SHA, provided that the tenant is not required to pay an amount that would exceed affordable rent (unless the tenant is an over-income tenant).

For so long as Housing Levy Operating & Maintenance Program subsidies are provided with respect to a unit, the rent requirements contained in the portion of this Administrative and Financial Plan governing that Program shall apply to that unit and shall supersede any other rent limitations otherwise applicable, except as stated in the preceding paragraph.

10. Loan conditions

The intent of the Levy is to provide long-term low-income housing for permanent or transitional occupancy. Loan conditions are meant to promote and encourage long-term use of properties for low-income housing. The OH Director may deviate from the loan terms and conditions contained in this Plan in the following cases:

- for tax credit partnerships, where such loan terms may impair the availability of tax benefits; or
- when the sponsor expects to receive other funding sources from which full or partial repayment of the City loan can be made prior to the normal maturity date.

In addition, the Director may agree to modifications or limits on the City's exercise of rights under loan documents where necessary to enable the project to secure other funding, including HUD-insured loans and HUD capital grants.

Debt service requirements may be established depending on income level served, operating budgets, and extent of other subsidies used. "Tax credit partnerships" may include limited liability companies or other entities organized to utilize low-income housing tax credits and/or other tax credits.

(a) Loan terms

Permanent loan terms will be a minimum of 50 years. OH may provide an acquisition or construction loan for a much shorter term that is eligible for conversion to a permanent loan upon satisfaction of conditions.

(b) Interest rate

The interest rate for projects not using low-income housing tax credits will generally be 1% for nonprofit-sponsored projects and 3% for private for-profit-sponsored projects. The interest rate for projects using low-income housing tax credits will be a minimum of 1% simple interest and a maximum of the Applicable Federal Rate for the purposes of Section 42 of the Internal Revenue Code, depending on the project's projected capacity for repayment. The actual interest rate for projects using low-income housing tax credits will generally range from 1-3% and will be set on a case-by-case basis. The interest rate will exceed 1% where there is a net financial benefit to the project. The purpose of establishing a range for the interest rate on Levy funds is to provide flexibility in financial structuring to maximize tax credit equity contributions and to help preserve long-term affordability. Interest on program loans will accrue annually as simple interest.

(c) Repayment

OH will generally make deferred payment loans that are payable in full on sale, on change of use, or at the end of the loan term. Terms generally will permit borrowers to further defer payment of principal, deferred interest, and contingent interest by extending the loan term. Amortizing loans will be required if project budgets can afford repayment and meet required rent levels. Terms of repayment required will be established as each project is reviewed. OH will develop policies to address replacement reserve levels in buildings that have been funded with Levy Rental Preservation & Production funds.

(d) Transfer and assumption

The OH Director may permit the transfer and assumption of the loan, and the transfer of the property acquired, constructed or rehabilitated with the proceeds of the loan, without requiring repayment of principal, interest or other amounts owing under the loan at the time of the transfer, under any of the following circumstances:

- The loan is assumed by a tax credit partnership and the partnership makes a substantial equity investment in the low-income housing;

- The property is transferred by a tax credit partnership to a nonprofit corporation or public agency approved by the Director, including without limitation a transfer to the general partner pursuant to the terms of an option agreement made in connection with the formation of the limited partnership; or

- The property is transferred, with the approval of the Director, to a qualified nonprofit corporation or public agency, without substantial consideration to the transferor other than assumption by the transferee of outstanding obligations.

Prospective new owners must complete a transfer of ownership application and meet the guidelines established for transfer of ownership.

(e) Covenant

A covenant will be recorded against the property that requires continued use of the property for low-income housing for the stated term of the loan, and for any period for which the loan is extended. Unless otherwise agreed by the Director, the covenant shall continue in effect if the loan is repaid or discharged before the maturity. The Director may release the covenant, wholly or in part, in connection with a sale of the property approved by the Director, including any foreclosure, if the Director determines that under all the circumstances, including any proposed substitution of other units, the release will likely result in a net benefit to the City's efforts to achieve low-income housing goals, compared to maintaining the covenant.

(f) Contingent interest

City participation in project equity (contingent interest) shall be required for all Rental Preservation & Production Program projects in the event of change of use or sale of property before the loan maturity date. Upon sale, change of use, acceleration or prepayment of the loan, loan principal plus the greater of either deferred interest or contingent interest shall be due. Contingent interest shall be calculated according to a formula established by OH.

The City's contingent interest should reflect the amount of City funds contributed as permanent financing to a project and should be modified by any additional funds contributed during the loan term, such as capital contributions approved by the City or sponsor subsidy necessary to cover operating losses. For example, if the loan is paid or becomes payable before the maturity date, if City funds are 50% of total project costs, the City should receive, in addition to repayment of its principal, 50% of proceeds remaining after repayment of approved project debt (but not including contingent interest owing to other project lenders).

(g) Prepayment premium

Prepayment of loans under the Rental Preservation & Production Program will be subject to Office of Housing approval. Such approval shall not be unreasonably withheld if the sponsor provides adequate assurances of future compliance with the affordability and occupancy restrictions in the regulatory agreement and recorded covenant. If a borrower repays the City loan (principal plus the greater of interest or contingent interest) during the first 15 years of the loan term, a prepayment premium shall also be due.

The prepayment premium shall be 50% of the original loan principal if the loan is repaid during the first five years of the loan term. The prepayment will decline by 5% per year in years 6 through 15. There will be no prepayment premium after 15 years.

Prepayment premiums shall not be due in the event of involuntary prepayment, due to casualty where there are insufficient insurance proceeds or other sources reasonably available to complete the repairs or condemnation.

(h) Loan term extension

Any unpaid principal balance and accrued, but unpaid interest on OH loans will be due and payable at the end of the 50 year loan term; however, borrowers shall have the option of extension, or, in certain circumstances, forgiveness of the OH debt. At the end of the loan term, borrowers will be encouraged to extend the loan term and continue to extend the period of affordability restrictions for an additional 25 years, provided the property continues to be in compliance with the OH affordability requirements.

(i) Debt forgiveness

Projects serving extremely low-income households shall be defined as projects with 50% or more units with rents affordable to extremely low-income residents. As an inducement to serve extremely low-income households, the OH Director may agree to terms in loan documents by which, if the loan term is extended for 25 years and the borrower and the property remain in compliance with OH loan documents, the debt will be deemed satisfied at the end of that extension period or ratably over the extension period.

For any other types of projects, principal debt and ordinary interest are not forgivable, but if the period of affordability restrictions is extended for an additional 25 years, during which period the loan terms may require payments on the outstanding debt from a portion of net cash flow as determined by a formula approved by the Housing Director, then the terms may provide that contingent interest will be forgiven.

(j) Use of funds owing to the City

Sale of projects during the loan term requires City consent. Loan payments to the City will be deposited in the Low-Income Housing Fund. Funds will not necessarily be reallocated to the Levy program from which they were committed. Funds returned from all Levy programs will be reallocated by OH to low-income housing projects according to priorities established in the current Administrative and Financial Plan or appropriate City policy plans as determined by OH.

(k) Refinancing

OH may allow refinancing of private debt in cases that result in additional capital investment in the project, that result in a lower interest rate, or that produce some other long-term project benefit. In general, OH will subordinate its deed of trust to new financing on reasonable terms if the outstanding principal balance of the new loan does not exceed the existing balance of a loan senior to the City deed of trust, or if the additional debt is used to repay a portion of the OH loan or for low-income housing purposes approved by OH, or some combination of these uses. OH shall review refinancing proposals, including the proposed new financing terms, proposed transaction costs, an assessment of the capital needs of the development and the adequacy of reserve accounts, and may define additional submittal requirements.

(l) Additional project subsidies

Projects will be underwritten with the goal of having a financing plan that achieves self-sufficiency for each project, so that repairs and improvements can be fully covered from the project's operating income or reserves. The Office of Housing may use a portion of Levy Rental Preservation & Production funds to meet the capital needs of existing city-funded projects, if the project meets all of the following criteria: a) the property has a critical capital need or code violation that cannot be addressed through the property's cash flow, reserves or other available resources, b) no other funding is available within the time frame required for the project, c) a public benefit will be realized as a result of the additional City funds, d) the sponsor will make a significant financial contribution, and e) the sponsor has demonstrated a plan for capable management and fiscal operations of the property. Such funds may be provided as shorter-term loans or added to existing long-term OH loans, as OH may determine based on the circumstances of the project.

(m) Property standards

Sponsors will be required to provide well-maintained and well-managed housing. Loan conditions will require sufficient replacement and operating reserves to help ensure projects are well maintained and managed.

(n) Non-recourse

Loans generally shall be made on a non-recourse basis, with the City's remedy limited to its security in the project, project rents, and project reserves, except in cases of fraud, waste or other circumstances determined by the OH Director to justify recourse against the borrower. OH may require recourse to the borrower or a guarantor, either temporarily or until certain conditions are satisfied, in particular circumstances where the City's security in the property may be inadequate.

(o) Special needs projects

Loan terms may include occupancy requirements specific to dedicating units for homeless individuals or households with special needs. Sponsors whose projects have units restricted to persons with particular special needs may propose to change the special needs or target population group being served in a project sometime during the 50-year loan term. If an event occurs requiring a change in population group served, sponsors with special needs projects will first be required to serve another special needs population approved by the City. If OH determines that that is not feasible or appropriate, OH may allow a general income-eligible population to be served.

(p) Use of Levy projects as security for other low-income projects

Sponsors may use Levy-funded projects as security for financing other low-income housing projects if sponsors receive advance written approval from OH. OH may give such approval if the sponsor demonstrates that using a Levy-funded project as security for financing another project will achieve benefits for the City and not jeopardize the viability of the Levy-funded projects.

(q) Bridge loans

Bridge loan policies are provided in the "Program Funding Plan" chapter of this Plan.

(r) Conduit financing

In order to take advantage of opportunities or to respond to requirements of particular projects, the Director may provide Levy funds to a project indirectly, for example by a loan to a borrower that then re-lends the funds to a project owner or lessee. Such financing may include, without limitation, acquisition of tax-exempt bonds from a conduit financing agency where the proceeds are used for an eligible project. In general, the project owner or lessee in such cases must agree to the regulatory terms described above and must provide a deed of trust for the benefit of the City, or that is assigned to the City.

(s) Leases

Site control through ownership of property is preferred to site control through a long-term lease except in cases where the lessor and lessee agree to accept the loan conditions described above and the City receives security in both leasehold and fee interests. Projects involving a borrower that is a lessee where lessor and lessee do not both accept these terms and conditions will be permitted only if the project represents an unusual cost-effective opportunity or furthers other community development objectives.

At a minimum, the following conditions will apply to properties where the borrower is the lessee and the owner does not agree to accept the normal loan terms and conditions above:

- Repayment: Loans involving leases must be structured to provide for repayment over the life of the lease. The OH Director may modify the normal repayment terms, as appropriate, by requiring different terms from or in addition to those generally specified by this Administrative and Financial Plan.
- Construction standard: Projects must meet construction standards appropriate for and consistent with the length of the lease term.
- Property standards: The housing must be maintained and managed consistent with Section 10(m) above. In addition, replacement reserves should be sufficient to maintain decent, safe, and sanitary housing during the lease term. Replacement reserve funds remaining at the end of the lease term should be used in other low-income housing projects.
- Borrower equity: Borrowers must contribute equity to the project. OH will establish the appropriate requirement for each project.
- Interest rate: The interest rate shall be consistent with Section 10(b) above.
- Lease term: Minimum lease term is 50 years with preference for longer terms when feasible. The lease term must exceed the City loan term by at least six months.
- Security: Security for the City loan should be appropriate to protect the City's interest in repayment of the loan.

11. Fair contracting practices, WMBE utilization

Increasing opportunities for women and minority business enterprises (WMBE) is a high priority for the City. Sponsors must comply with fair contracting practices and OH’s women and minority business enterprises (WMBE) policy, as provided in Appendix H of the 2005-2008 Consolidated Plan for Housing & Community Development, as previously amended and as it may be further amended.

12. Leveraging

A goal of the Levy is to leverage non-City resources for capital, operating, and supportive services to the greatest extent possible. Project sponsors are encouraged to combine Levy funds with resources from federal and State programs, e.g., McKinney Homeless Assistance Act, State Housing Trust Fund, State Operating & Maintenance Funds, and the King County Regional Affordable Housing Program (funded by document recording fees). Leveraging of foundation and grant funds, and owner equity are strongly encouraged. Sponsors shall consider Levy funds as matching funds for other fund sources.

In the project selection process, projects will be evaluated on the extent to which non-City funds are included while, at the same time, affordable rents are maintained for low-income households. Projects may be approved contingent on sponsor application for funding from appropriate non-City, public or private fund sources that may reduce the need for Levy funds.

Use of the low-income housing tax credit and historic preservation tax credit programs will be encouraged whenever possible. In general, project equity available as a result of participation in a tax credit program after a reasonable allowance for the costs of obtaining such equity shall be used to reduce the City's share of project funding. The OH Director may allow a portion of the equity funding from tax credits to reduce the other funding sources' shares of project financing or be used to subsidize operating expenses of special needs projects.

13. Relocation, displacement, and real property acquisition

Sponsors must comply with relocation, displacement, and real property acquisition policies, laws, and regulations, as provided in Appendix H of the 2005-2008 Consolidated Plan for Housing & Community Development, as amended and as it may be further amended.

14. Management plan

Good management is critical to the overall success of projects. Project sponsors will be required to submit a management plan to OH for approval. Management plans should include the following:

- The occupancy standard (minimum and maximum number of persons for each type of unit) for the project. Any occupancy standards and their implementation must not conflict with federal, State or City Fair Housing standards.
- Rent collection policies and procedures for dealing with late payments of rent and damage to units.
- Description of management philosophy and experience serving proposed client population.
- Identification of key staff position(s) both on and off-site involved in managing the building including a description of staff responsibilities, previous experience, and program for staff training.
- Policies for making budget adjustments including expenditures of replacement and operating reserves and description of work order process.
- Description of long-term maintenance plan, including a schedule for both exterior and interior maintenance of the building.
- Description of building security and emergency plan, including schedule for periodic building inspections.
- Description of the tenant screening and selection process.

- Plan describing how vacant units are made ready and leased to new tenants upon turnover.
- Commitment to the City's Just Cause Eviction Ordinance.
- Referral process from programs serving households who are homeless.
- Affirmative Marketing Plan—plan must include marketing methods designed to reach tenants from all segments of the community, including tenants who are persons of color and persons with disabilities. Because a substantial number of persons who are homeless are persons of color, minorities, non-English-speaking persons and persons with disabilities, it will be important for proposals serving people who are homeless to demonstrate sponsor understanding of the needs of persons form diverse backgrounds and cultures and of persons with disabilities.
- Description of ongoing community education and involvement strategy, including steps that would be taken to address complaints or issues raised by tenants and neighbors about the building or tenants.
- Copy of leases or rental agreements to be used and description of how tenant files and other records will be maintained.
- Description of the process for determining rent increases, and for informing tenants of rent increases.
- Schedule for periodic capital needs assessment of life cycle cost analysis for the replacement of major building components to ensure the replacement reserve is adequate for the life of the project.
- Management plans for special needs housing, transitional housing, or other housing requesting support services funding should also include the following information:
    - Description of service support program to be provided to tenant households.
    - Description of process for selecting/referring homeless households living in emergency shelters to the transitional housing project.
    - Demonstration that adequate funding is available for the service support program component.
    - Identification of key staff responsible for coordinating or providing supportive services.
    - If different agencies are responsible for managing the housing units and the supportive services program, description of relationship between agencies and copies of written agreements between the agencies.
    - Involvement of tenants in project governance.
    - Description of performance or outcome measures.

15. Project selection

Applicants will submit proposals to OH in response to a general Notice of Funding Availability (NOFA). OH will publish the NOFA schedule at the beginning of each year. The NOFA will describe when applications may be submitted and outline application requirements. All applications must include information requested in the NOFA. Incomplete applications will be returned to applicants; minor deficiencies may be corrected during the review process. Major deficiencies will cause the application to be withdrawn from the funding round.

All applicants are strongly encouraged to attend a project pre-application conference with OH staff prior to submitting an application for funding, consistent with requirements outlined in the NOFA. Funding applications will first be reviewed by OH staff. Staff will review project proposals for consistency with Levy policies and develop funding conditions, if appropriate.

The Director may reserve a portion of any year's Levy appropriation in order to provide additional funding for approved projects if required due to unforeseen cost increases or unavailability of other funds expected at the time of approval. If additional funds become available, for example, due to cancellation of a project or cost savings, the Director may apply such funds to any such necessary increase and/or to projects for which qualifying applications were received in response to a prior NOFA but that could not be funded, or could not be fully funded, due to insufficient funds then available.

Funding recommendations shall be made by a Credit Committee, comprised of persons appointed by the OH Director. The Credit Committee shall include private and public sector housing finance professionals, as well as representatives of the Mayor's Office and City Council, if available, and other persons with expertise in affordable housing. The OH Director, whose decisions on funding shall be final, will make project selection decisions based on Director's judgment as to the overall mix of projects that will best implement the City's policies. Results will be reported to the Housing Levy Oversight Committee. Project selection will be based on, but not limited to, the following general criteria:

- Reasonable cost—project cost comparison.
- Project readiness—is the applicant ready to move the project forward in a timely way; is the timing of the other funding sources sequenced appropriately?
- Rental housing priorities—which projects best meet the City's rental housing priorities?
- Overall investment opportunity—which projects provide the most public benefit for the City?
- Community development opportunity—which projects offer community benefit beyond provision of housing units?
- Sponsor's track record—has applicant demonstrated successful development and operation of affordable housing, is applicant agency current with all reporting information on previously funded projects; does sponsor have adequate financial capacity; are previously funded projects proceeding on schedule and within budget?

The criteria will be published in NOFA documents, with more explanation on how criteria will be applied. All complete applications received by the application deadline will receive consideration for funding.

Funding announcements by the Director are preliminary and not binding on the City until contract documents are negotiated and signed by both the Director and the applicant. After funding decisions are announced, the Director may revoke or reduce funding to any project based on a number of factors, such as failure to meet funding conditions or failure of the applicant to obtain other funding; noncompliance by the applicant with City policies; determination of inaccuracies in the information submitted; increased costs or other factors affecting feasibility; results of environmental or other reviews; or failure to the applicant to agree to loan conditions. The Director also may increase funds to a project after initial funding decisions are made if reasonably necessary to assure success of the project or maximum public benefit, based on new information not available at the time of the initial decision.

16. Project proposal requirements

OH will release Notice of Fund Availability (NOFA) documents that outline specific project proposal requirements. Applicants will be required to submit information on proposed projects that may include, but not be limited to, the items below. Information will be requested from applicants in a manner and time appropriate to the specific type of project selection process.

- Project description, including location, number of units, current rents, and special characteristics.

- Evidence (resumes, narrative, recent audits and organization's current financial information, etc.) demonstrating project applicant experience and capacity in each of the following areas:
  - Development
  - Ownership
  - Management
  - Serving proposed population

- Experience of development team—description of development team members and their experience with the type of project proposed.

- Construction description—proposed rehabilitation/development plan including total scope of work, detailed cost estimates, drawings, reports and evidence of predesign conference with Department of Planning and Development (DPD).

- Development schedule—timetable for development of the project.

- Phase I site assessment including asbestos/lead paint/hazardous materials survey—a survey to identify the presence and amount of asbestos/lead paint and/or any other hazardous materials or underground tanks within the building or elsewhere on site and a description of proposed abatement measures. A Phase II assessment will be required if recommended in the Phase I.

- Development budget, including acquisition, rehabilitation or new construction costs, and any relocation costs.

- Operating budget, including 15 year operating proforma with proposed rents and justification for operating subsidy, if requested.

- Fund sources—description of all project fund sources including amounts and evidence of funding commitments.

- Tenant profile—description of proposed and existing tenants, household size, estimate and source of tenant income, discussion of the need for and extent of relocation.

- Support services—budget and description of all services to be provided on and off site as appropriate, for the tenant population to be served.

- Evidence of site control—in addition to fee simple ownership, an option to purchase, an earnest money agreement, a lease (or option to lease) with a minimum term of 50 years, will constitute site control. OH will consider projects where the underlying ownership is through a real estate contract if the contract holder is willing to subordinate his/her interest to the OH loan or if there is adequate provision for the applicant to discharge the underlying contract and obtain fee title.

- Appraisal—if the project involves acquisition, an appraised value based on the highest and best use at the time of property acquisition will be used to assess whether or not a fair price is paid for land, including any structures. Appraisals, or letter of opinion, will be ordered by OH, or may be used if ordered by another project lending source acceptable to the City. Project applicants should make acquisition offers subject to verification by appraisals acceptable to the City.

- Community notification—description of results of community notification process and any results at time of application and plans for additional notification activities. Proposal must describe how community issues or concerns raised will be addressed.

- Zoning—description of zoning exception required, if applicable (examples of zoning exceptions: variance, special exception, design departure, and conditional use). Zoning exception approval may not be required at time of project application but normally will be required prior to final loan commitment, and evidence that approval can be secured in a timely manner will be required at time of project application.

In addition to information listed above, projects serving special needs populations will be required to submit the following:

- Project description—including description of housing and supportive services program. Applicant must describe population to be served and demonstrate how project will serve that population. Applicant must demonstrate extent of "market" or level of need for proposed project and describe project's impact on the target population.

- Evidence of site suitability—explanation why site is suitable for homeless or special needs population to be served.

17. Construction requirements

The following construction requirements will apply unless otherwise noted in the NOFA application. These requirements apply equally to both permanent and transitional housing projects.

(a) Quality of construction

Applicants will be expected to provide quality housing that will last for 50 years or longer.

(b) Sustainability

SeaGreen: Greening Seattle's Affordable Housing was developed by OH to promote energy conservation, operational savings, and sustainable building practices in affordable multifamily housing projects. The strategies included in the SeaGreen guide work to reduce operating costs, promote healthy environments and protect and conserve resources in City funded affordable housing projects.

Sustainable building practices can include (but are not limited to) conservation and environmental measures related to:

- Enhanced Design
- Site & Water
- Energy Efficiency
- Health & Indoor Air Quality
- Materials Efficiency
- Operation & Maintenance

Applicants are required to complete a SeaGreen Sustainability Plan Template checklist and describe their sustainability plans. The checklist should be submitted with the NOFA application.

(c) Universal design principles

Universal design is a term used to describe development that can serve multiple generations and residents of all abilities. Applicants are strongly encouraged, to the maximum extent financially feasible, to incorporate universal design principles in housing units developed under the rental production and neighborhood opportunity programs.

(d) Rehabilitation

Rehabilitation standards will be flexible to accommodate a wide variety of unit and building types. Buildings will be required at a minimum to meet health and safety requirements of the Seattle Housing and Building Maintenance Code. Rehabilitation work will largely focus on repair/replacement of major building systems necessary to insure viable long-term housing. In addition, overall design of the project and proposed improvements must be appropriate to tenants to be housed.

(e) Phased rehabilitation

Phased rehabilitation refers to work items identified when a project is initially inspected but postponed until a later date. Work that could be postponed includes building components that have some remaining useful life or items like windows which could be replaced over several years. Work that would cause previously completed improvements to be redone cannot be phased.

Phased rehabilitation may be considered, but is disfavored unless all work items identified at the time a project is considered for funding and postponed until a future date have an identified funding source. Project budgets must either be structured to allow sufficient reserve funds to build up to pay for work postponed, or another source of funding must be identified.

Applicants must present a phased rehabilitation plan to OH for approval. A decision to phase rehabilitation will be made by OH within the context of a complete building evaluation that includes a total scope of rehabilitation and a cost for the entire project.

Plans for addressing project rehabilitation needs based on thorough building inspections will be required when projects are considered for funding. Plans must include work items to be accomplished immediately following project selection, and those items proposed to be phased over time. All major work items generally should be included at the time a project is funded.

(f) Contracting policies

As a general rule, all projects where cost of construction work exceeds $25,000 will follow a competitive contractor selection process. Applicants that wish to select a contractor through negotiated bid or other process must obtain advance approval from the Director of the Office of Housing. OH must approve contractor qualifications for projects prior to the start of construction. Unqualified contractors will be rejected. Pre-qualification of contractors will be allowed for purposes of establishing a defined list of contractors qualified for competitive bidding.

Competitive bids will be opened publicly. Bid openings will occur at a location to be determined by applicants; bids can be opened at OH at the request of applicants.

If applicants do not have sufficient in-house construction management capacity, they will be required to contract for this service. Applicants proposing to manage their own construction projects must obtain OH approval. Such applicants must have prior experience managing a construction project and have staff available to coordinate necessary work. In addition, the scope of work should appropriately match the agency's construction management experience and staff expertise.

Construction contracts shall encourage employment of female, minority and economically disadvantaged workers. Hiring of people who are homeless is encouraged.

(g) Wage rates

State residential prevailing wage rates shall be the minimum rates applicable to the Levy's Rental Preservation & Production Program; wage rate requirements will apply to the entire project, regardless of the amount of Levy funding in the project. State residential prevailing wage rates shall be the minimum rates paid for project construction. When federal funds are used in a project, the higher of either the State residential prevailing wage rates (unless modified as stated below) or Davis-Bacon wage rates (if applicable under federal law) will apply, unless applicable law otherwise requires or another funding source requires a higher minimum rate. OH Director may approve a change in these requirements if necessary to achieve compatibility with a state or federal funding source or to promote inclusion of Levy-funded units in mixed income and/or mixed-use buildings.

(h) Apprenticeship program participation

Applicants are encouraged to require contractors to participate in State-approved apprenticeship programs. Applicants who demonstrate to OH's satisfaction that requiring contractors to have previous experience with State-approved apprenticeship programs would be beneficial for project development can also include that requirement.

(i) Project labor agreements

Applicants who demonstrate to OH's satisfaction that use of a project labor agreement would be beneficial for project development may require a project labor agreement.

18. Project monitoring

The OH Director shall require reporting containing information on the status of the project from sponsors annually, or at any time upon reasonable advance notice.

(a) Performance measures

Performance measures will be based on the following principles:

- Measures should be based on information that is relatively accessible and easy to collect;
- Measures should be coordinated with those required by other funders in order to keep information unique to the City at a minimum;
- Deadlines for reporting and site visits by City staff should be coordinated with those of other funders to the extent possible;
- In most cases, reports provided for other funders should be acceptable for City monitoring purposes.

(b) Outcomes for housing project operations

Specific requirements will be included in loan documents, based on "Outcomes for Housing Project Operations" listed below. The ten desired outcomes of the City's multifamily low-income housing program are:

1. Rents and occupancy—The housing has rents affordable to low-income households and is occupied by income eligible households as specified in contractual agreements with the City.
2. Safe and sanitary condition—The housing is continually in safe and sanitary condition, and is in conformance with the Seattle Housing and Building Maintenance Code and Housing Quality Standards. All improvements must be in accordance with the Seattle Building Code. The housing project is providing all the common facilities and design features originally constructed, or altered through mutual consent, in the project.
3. Sound project fiscal management—The project is being operated according to sound fiscal management practices, and all reserves, taxes, utilities and debt service are being timely paid, including any amounts due to the City.
4. Sound sponsor fiscal health—The project sponsor is in sound fiscal health.

5. Management plan—The project is operated according to the agency's original, or amended, management plan. Long-term capital needs for maintenance, repairs and major replacements are adequately planned for and done in a timely manner.
6. Project serves intended population—A project which is designed for a particular population or housing need, such as persons who are mentally ill or have substance abuse problem is serving the group approved by City and is providing services as specified in the agency's management plan, as specified in contractual agreements with the City.
7. Affirmative marketing and nondiscrimination—The housing is being affirmatively marketed and nondiscriminatory treatment for all applicants and occupants is assured.
8. Community relations—The housing project is a good neighbor, which is measured by good maintenance and responsiveness to neighborhood concerns and complaints.
9. Programs serve a variety of people—Collectively, the housing funded by City of Seattle programs is serving the variety of low-income households, ethnic groups, and persons with special needs that have been identified as in need of multifamily housing assistance.
10. Operations and maintenance subsidy—For projects in receipt of operations and maintenance subsidy, eligible households are utilizing the subsidy, and the need for the subsidy is documented on an annual basis.

19. Affirmative marketing

Sponsors must comply with OH's affirmative marketing policy, as provided in Appendix H of the 2005-2008 Consolidated Plan for Housing & Community Development, as previously amended and as it may be further amended.